

108TH CONGRESS  
1ST SESSION

# S. 192

To amend title 23, United States Code, to provide for criminal and civil liability for permitting an intoxicated arrestee to operate a motor vehicle.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2003

Mr. CORZINE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend title 23, United States Code, to provide for criminal and civil liability for permitting an intoxicated arrestee to operate a motor vehicle.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “John’s Law of 2003”.

5       **SEC. 2. LIABILITY FOR PERMITTING AN INTOXICATED AR-**  
6       **RESTEE TO OPERATE A MOTOR VEHICLE.**

7       (a) IN GENERAL.—Subchapter I of chapter 1 of title  
8       23, United States Code, is amended by adding at the end  
9       the following:

1 **“§ 165. Liability for permitting an intoxicated ar-**  
 2 **restee to operate a motor vehicle**

3 “(a) DEFINITION OF MOTOR VEHICLE.—In this sec-  
 4 tion, the term ‘motor vehicle’ means a vehicle driven or  
 5 drawn by mechanical power and manufactured primarily  
 6 for use on public highways, but does not include a vehicle  
 7 operated only on a rail.

8 “(b) WITHHOLDING OF APPORTIONMENTS FOR NON-  
 9 COMPLIANCE.—

10 “(1) FISCAL YEAR 2005.—The Secretary shall  
 11 withhold 5 percent of the amount required to be ap-  
 12 portioned to any State under each of paragraphs  
 13 (1), (3), and (4) of section 104(b) on October 1,  
 14 2004, if the State does not meet the requirements  
 15 of paragraph (3) on that date.

16 “(2) SUBSEQUENT FISCAL YEARS.—The Sec-  
 17 retary shall withhold 10 percent of the amount re-  
 18 quired to be apportioned to any State under each of  
 19 paragraphs (1), (3), and (4) of section 104(b) on  
 20 October 1, 2005, and on October 1 of each fiscal  
 21 year thereafter, if the State does not meet the re-  
 22 quirements of paragraph (3) on that date.

23 “(3) REQUIREMENTS.—A State meets the re-  
 24 quirements of this paragraph if the State has en-  
 25 acted and is enforcing a law that is substantially as  
 26 follows:

1           “(A) WRITTEN STATEMENT.—If a person  
2           is summoned by or on behalf of a person who  
3           has been arrested for public intoxication in  
4           order to transport or accompany the arrestee  
5           from the premises of a law enforcement agency,  
6           the law enforcement agency shall provide that  
7           person with a written statement advising him of  
8           his potential criminal and civil liability for per-  
9           mitting or facilitating the arrestee’s operation  
10          of a motor vehicle while the arrestee remains  
11          intoxicated. The person to whom the statement  
12          is issued shall acknowledge, in writing, receipt  
13          of the statement, or the law enforcement agency  
14          shall record the fact that the written statement  
15          was provided, but the person refused to sign an  
16          acknowledgment. The State shall establish the  
17          content and form of the written statement and  
18          acknowledgment to be used by law enforcement  
19          agencies throughout the State and may issue  
20          directives to ensure the uniform implementation  
21          of this subparagraph. Nothing in this subpara-  
22          graph shall impose any obligation on a physi-  
23          cian or other health care provider involved in  
24          the treatment or evaluation of the arrestee.

1           “(B) IMPOUNDMENT OF VEHICLE OPER-  
2           ATED BY ARRESTEE; CONDITIONS OF RELEASE;  
3           FEE FOR TOWING, STORAGE.—

4           “(i) If a person has been arrested for  
5           public intoxication, the arresting law en-  
6           forcement agency shall impound the vehicle  
7           that the person was operating at the time  
8           of arrest.

9           “(ii) A vehicle impounded pursuant to  
10          this subparagraph shall be impounded for  
11          a period of 12 hours after the time of ar-  
12          rest or until such later time as the arrestee  
13          claiming the vehicle meets the conditions  
14          for release in clause (iv).

15          “(iii) A vehicle impounded pursuant  
16          to this subparagraph may be released to a  
17          person other than the arrestee prior to the  
18          end of the impoundment period only if—

19               “(I) the vehicle is not owned or  
20               leased by the person under arrest and  
21               the person who owns or leases the ve-  
22               hicle claims the vehicle and meets the  
23               conditions for release in clause (iv); or

24               “(II) the vehicle is owned or  
25               leased by the arrestee, the arrestee

1 gives permission to another person,  
2 who has acknowledged in writing re-  
3 ceipt of the statement to operate the  
4 vehicle and the conditions for release  
5 in clause (iv).

6 “(iv) A vehicle impounded pursuant to  
7 this subparagraph shall not be released un-  
8 less the person claiming the vehicle—

9 “(I) presents a valid operator’s  
10 license, proof of ownership or lawful  
11 authority to operate the vehicle, and  
12 proof of valid motor vehicle insurance  
13 for that vehicle;

14 “(II) is able to operate the vehi-  
15 cle in a safe manner and would not be  
16 in violation driving while intoxicated  
17 laws; and

18 “(III) meets any other conditions  
19 for release established by the law en-  
20 forcement agency.

21 “(v) A law enforcement agency im-  
22 pounding a vehicle pursuant to this sub-  
23 paragraph is authorized to charge a rea-  
24 sonable fee for towing and storage of the  
25 vehicle. The law enforcement agency is fur-

1                   ther authorized to retain custody of the ve-  
 2                   hicle until that fee is paid.

3           “(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLI-  
 4 ANCE AND NONCOMPLIANCE.—

5                   “(1) PERIOD OF AVAILABILITY OF WITHHELD  
 6 FUNDS.—Any funds withheld under subsection (b)  
 7 from apportionment to any State shall remain avail-  
 8 able until the end of the fourth fiscal year following  
 9 the fiscal year for which the funds are authorized to  
 10 be appropriated.

11                   “(2) APPORTIONMENT OF WITHHELD FUNDS  
 12 AFTER COMPLIANCE.—If, before the last day of the  
 13 period for which funds withheld under subsection (b)  
 14 from apportionment are to remain available for ap-  
 15 portionment to a State under paragraph (1), the  
 16 State meets the requirements of subsection (a)(3),  
 17 the Secretary shall, on the first day on which the  
 18 State meets the requirements, apportion to the State  
 19 the funds withheld under subsection (b) that remain  
 20 available for apportionment to the State.

21                   “(3) PERIOD OF AVAILABILITY OF SUBSE-  
 22 QUENTLY APPORTIONED FUNDS.—

23                   “(A) IN GENERAL.—Any funds appor-  
 24 tioned under paragraph (2) shall remain avail-  
 25 able for expenditure until the end of the third

1           fiscal year following the fiscal year in which the  
2           funds are so apportioned.

3           “(B) TREATMENT OF CERTAIN FUNDS.—  
4           Any funds apportioned under paragraph (2)  
5           that are not obligated at the end of the period  
6           referred to in subparagraph (A) shall be allo-  
7           cated equally among the States that meet the  
8           requirements of subsection (a)(3).

9           “(4) EFFECT OF NONCOMPLIANCE.—If, at the  
10          end of the period for which funds withheld under  
11          subsection (b) from apportionment are available for  
12          apportionment to a State under paragraph (1), the  
13          State does not meet the requirements of subsection  
14          (a)(3), the funds shall be allocated equally among  
15          the States that meet the requirements of subsection  
16          (a)(3).”.

17          (b) CONFORMING AMENDMENT.—The analysis for  
18          subchapter I of chapter 1 of title 23, United States Code,  
19          is amended by adding at the end the following:

“165. Liability for permitting an intoxicated arrestee to operate a motor vehicle.”.

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